

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK-----  
THE CITY OF NEW YORK,

X

Plaintiff,

:  
Case No. 1:24-cv-05161

v.

**NOTICE OF REMOVAL**ENVIROMD GROUP LLC; GT IMPORTS;  
KAYLA WHOLESALE, INC., d/b/a The Vapery;  
KLCC WHOLESALE INC.; MV TRADING LLC  
a/k/a MYVAPORSTORE; PIONEER  
DISTRIBUTION, INC. a/k/a WEVAPEUSA.COM  
a/k/a SELLER SUPREME LLC;  
RZ SMOKE INC.; STAR ZONE INC.; URBAN  
SMOKE DISTRIBUTORS; VAPE MORE INC.  
a/k/a MORE LLC; VAPE PLUS DISTRIBUTION  
CORP. a/k/a G&A DISTRIBUTION; DAVID  
ALFIH a/k/a David Alfieh, a/k/a DJ Alfani; and  
MARCUS BERNARD,,

Defendants.

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X

PLEASE TAKE NOTICE that Defendants Vape More Inc. a/k/a More LLC (“Vape More”) and Vape Plus Distribution Corp. a/k/a G&A Distribution (“Vape Plus” together with Vape More, “Defendants”) hereby remove this action, currently pending in the Supreme Court of New York, New York County, Index No. 451009/2024, to the United States District Court for the Southern District of New York, pursuant to 28 U.S.C. §§ 1331 and 1441. As required by 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon Defendants and/or filed in the Supreme Court of New York, New York County, are attached hereto as Exhibits.

In support of this Notice of Removal, Defendants state:

1. On April 4, 2024, Plaintiff The City of New York (“Plaintiff”) filed a Summons and Complaint (the “Original Complaint”) against Defendants in the Supreme Court of New York, New York County (Index No. 451009/2024). Exhibits A, C (NYSCEF Doc. Nos. 1, 3).

2. The Original Complaint alleged claims for violations of New York Public Health Law § 1399-l(l)(1-a); violations of New York City Administrative Code § 17-715(b)(1); and a common law claim for public nuisance under New York law.

3. Because the Original Complaint did not include any claims arising under the Constitution, laws, or treaties of the United States within the meaning of 28 U.S.C. § 1331 and no diversity of citizenship existed between the Plaintiff and the Defendants within the meaning of 28 U.S.C. § 1332, the Original Complaint was not removable to this Court pursuant to 28 U.S.C. § 1441(a).

4. On April 6, 2024, Defendant Vape Plus was served with the Summons and Original Complaint. Exhibit M (NYSCEF Doc. No. 13).

5. On April 9, 2024, Defendant Vape More was served with the Summons and Original Complaint. Exhibit P (NYSCEF Doc. No. 16).

6. On May 31, 2024, Defendants filed a motion to dismiss the Original Complaint. Exhibits FF-II (NYSCEF Doc Nos. 32-35).

7. In lieu of responding to the motion to dismiss the Original Complaint, on June 14, 2024, Plaintiff filed an Amended Complaint and served Defendants via NYSCEF (Exhibit OO (NYSCEF Doc. No. 42)). The Amended Complaint adds for the first time a claim alleging violations of The Prevent All Cigarette Trafficking (“PACT”) Act, 15 U.S.C. § 375, *et seq.*

8. Because this Notice of Removal is filed within thirty (30) days of the filing and service of the Amended Complaint raising for the first time a claim arising under the laws of the

United States, this Notice of Removal is timely filed within the thirty (30) days allotted for removal by 28 U.S.C. § 1446(b)(1). *See* 28 U.S.C. § 1446(b)(3).

9. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because the claim arises under the laws of the United States. This case is properly removed pursuant to 28 U.S.C. § 1441 because the action “includes a claim arising under the . . . laws of the United States” within the meaning of 28 U.S.C. § 1331.

10. Venue is properly laid in this district because this Court is the United States District Court for the district and division embracing the place wherein the state court action is pending. 28 U.S.C. § 1441(a).

11. Promptly upon filing this Notice of Removal with this Court, Defendants will give written notice of this removal to counsel for Plaintiff and will also file a copy of this Notice with the Clerk of the Supreme Court of New York, New York County.

12. By filing this Notice of Removal, Defendants do not waive, and hereby reserve, all defenses that they may have to the Amended Complaint.

13. Defendants understand that all other defendants served in this action consent to the removal of the action to this Court and will file a written consent to the removal of this action.

WHEREFORE, Defendants respectfully give notice that this action is to be, and hereby is, removed from the Supreme Court of New York, New York County, to the United States District Court for the Southern District of New York.

Dated: New York, New York  
July 8, 2024

**THOMPSON HINE LLP**

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*Counsel for Defendants Vape More Inc. and  
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**CERTIFICATE OF SERVICE**

I hereby certify that on July 8, 2024, I served a true and correct copy of the foregoing Notice of Removal upon the following counsel of record via email:

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